

§ 143B-146.8. Evaluation of licensed personnel and principals; action plans; State Board notification.

(a) Annual Evaluations; Low-Performing Schools. – The principal shall evaluate at least once each year all licensed personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under G.S. 115C-325(a)(6) with career status or a teacher as defined in G.S. 115C-325.1(6) on contract, either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the Superintendent shall conduct the evaluation.

Notwithstanding this subsection or any other law, the principal shall observe at least three times annually, a teacher shall observe at least once annually, and the principal shall evaluate at least once annually, all teachers who have been employed for less than three consecutive years. All other employees defined as teachers under G.S. 115C-325(a)(6) with career status or teachers as defined in G.S. 115C-325.1(6) on a four-year contract who are assigned to participating schools that are not designated as low-performing shall be evaluated annually unless the State Board adopts rules that allow specified categories of teachers with career status or on four-year contracts to be evaluated more or less frequently. The State Board also may adopt rules requiring the annual evaluation of nonlicensed personnel. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school.

(b) Action Plans. – If a licensed employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) the principal recommend that the employee who is a career employee be dismissed or demoted as provided in G.S. 115C-325 or the employee who is a teacher on contract not be recommended for renewal; or (iii) if the employee who is a teacher on contract engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion under G.S. 115C-325.4 be instituted. The principal shall determine whether to develop an action plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist in evaluating licensed personnel and developing effective action plans within the time allotted under this section. The State Board may adopt policies for the development and implementation of action plans or professional development plans for personnel who do not require action plans under this section.

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the principal or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the principal shall recommend that the employee with career status be dismissed or demoted under

G.S. 115C-325, or that an employee's contract not be renewed or if the employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be dismissed or demoted under G.S. 115C-325.4. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If an employee is dismissed for cause or an employee's contract is not renewed as a result of a superintendent's recommendation under subsection (b) or (c) of this section, the State Board shall be notified of the action, and the State Board annually shall provide to all local boards of education the names of those individuals. If a local board hires one of these individuals, that local board shall proceed under G.S. 115C-333(d).

(e) Civil Immunity. – There shall be no liability for negligence on the part of the Secretary or the State Board, or their employees, arising from any action taken or omission by any of them in carrying out this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection is waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(f) Evaluation of Principals. – Each year the Secretary shall evaluate the principals. (1998-131, s. 5; 2005-195, s. 6; 2013-247, s. 6; 2013-360, ss. 9.7(n), (x); 2017-157, ss. 2(k), (n).)